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In re Application of
COHEN, Charles M.
U.S. Application No. 09/445,328
PCT No.: PCT/US98/03197
Int. Filing Date: 05 May 1998
Priority Date: 05 May 1997
For: THERAPIES FOR ACUTE RENAL
FAILURE

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLE UNDER 37 CFR 1.137(b)" filed 07 December 1999 in the above-captioned application. The required petition fee of \$605.00 (37 CFR 1.17(m)) has been submitted.

BACKGROUND

On 05 May 1998, applicant filed international application PCT/EP98/01388 which claimed a priority date of 05 May 1997 and which designated the United States. A proper Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 05 November 1999.

On 07 December 1999, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: \$465 for the basic national fee; a declaration and power of attorney; a small entity statement; an executed Declaration, and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the submission of the payment of the basic

national fee of \$420.00.

As to Item (2), the appropriate petition fee of \$605.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since the international application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

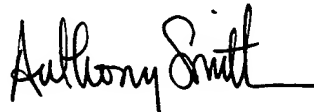
All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is GRANTED.

The application has an international filing date of 05 May 1998 under 35 U.S.C. 363 and a 35 U.S.C. 102(e) and 371(c) date of 07 December 1999.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.



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